

complaint

Mrs D's complaint concerns a Scottish Widows Plc Care Plan taken out by her husband, Mr D.

Mrs D does not agree Scottish Widows has interpreted the terms of the policy correctly. She believes she should be able to claim the full amount of the benefit available from the policy as a payment to her, as she is personally looking after Mr D as his carer.

Mrs D says that, as she is fully qualified and trained medically, she is best placed to determine what level and type of care is required by her husband.

background

The Care Plan was taken out in 1999 as a result of advice Mr D was given by an independent financial adviser. It was intended to provide financial assistance towards the cost of personal care should Mr D require it.

Mrs D made a claim under the policy, which was accepted by Scottish Widows. Following this, there was correspondence between Mrs D and Scottish Widows about what payments should be made. She wanted Scottish Widows to pay her the monthly benefit for providing care, as she is fulfilling this function for her husband.

Scottish Widows did not agree to pay the benefit directly to Mrs D. It said this was intended to pay for the costs of providing professional care. As Mrs D lived with her husband, she was not employed to act as his carer.

One of our adjudicators looked into Mrs D's concerns. But she was unable to agree Scottish Widows had done anything wrong in the way in which it had dealt with the claim. The adjudicator didn't agree Scottish Widows was obliged to pay Mrs D the income benefit personally. This was because she was not 'employed' to provide care – in that she did not have a contract of employment. Also, she was not registered with a local authority as a qualified carer. Any care that she gave to her husband seemed on a voluntary basis.

Mrs D didn't accept the adjudicator's opinion and asked for the matter to be reviewed by an ombudsman. She also made the following points:

- Scottish Widows had agreed to pay for a 'sitting service'. There was no requirement for those undertaking the 'sitting service' to be qualified or registered carers. As long as an invoice was sent in for the work it would be accepted.
- She doesn't choose to volunteer for the amount of work she is doing, throughout the day and night. And she doesn't believe anyone else was entitled to regard her work as voluntary.
- She had been advised that she could consider contracting the work out (to another) for the full value of the policy.
- Or she could consider invoicing Scottish Widows for the work which she does, since they require an invoice.

- The local authority does sometimes waive its restrictions and pay benefits to someone who is living in the same house. Mr D now needs a live-in carer/24-hour sitting service as his condition cannot be managed by 'home visits'.
- Since the policy is a Private Insurance Policy, Scottish Widows could accept Mrs D as this carer. It's illogical to say that anyone else without qualifications or registration could do this, but not Mrs D. Scottish Widows do not, as the adjudicator has suggested, insist that payment is only made to 'qualified and registered' carers.

Scottish Widows was sent a copy of Mrs D's response and asked if it had anything further to add. It said:

- The sitting service provided by the policy was to give carers the opportunity to take a break from their caring responsibilities. In Mr D's case, this would be in the form of friendly support, supervision, and company while Mrs D is not at home.
- It appreciated the importance of a sitting service to enable Mr D to remain at home. But there was still a requirement to fund this in a professional capacity. So anyone providing such a service would be subject to requisite care services registration and regulatory compliance, including insurance.
- Whilst it was crucial for Mr D to be comfortable with the person providing the service, it cannot simply be provided by 'any adult'. Scottish Widows said the sitting service it funded was provided by an experienced professional who offers a sitting service and was known to Mr D.
- If Mrs D did decide to opt out of providing her husband's care, Scottish Widows would cover the costs of his nursing care and professional help with domestic tasks in order for Mr D to remain in his own home. It had always made it clear this is the case, and the income benefit is available to pay for those care costs.
- It did not agree with Mrs D's comment that 'anyone else' without qualifications or registration could provide the care needed by her husband. It would insist on nursing care being provided by a qualified carer for payment to be made.

As no agreement could be reached, the complaint has been referred to me for independent review and a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I appreciate this has been a difficult time for Mrs D, and I empathise with the position in which she finds herself. However, I must also remain impartial when considering this complaint.

I note Mrs D has referred to what Mr D understood about the policy when he took it out. But as the adjudicator explained, it was the financial adviser's duty to ensure Mr D understood how the policy worked and it was the right product for him. So any concerns Mrs D may have about this should be referred to the business that gave the advice.

Therefore, in this decision I will only consider whether Scottish Widows has dealt with the claim correctly, and in line with the policy terms and conditions.

The policy describes "Care Costs" as:

"Care costs" means, for a period, costs incurred to provide you with any of the following types of care or service during that period:

- (a) accommodation in a registered residential home or registered nursing home,*
- (b) nursing care provided by a qualified carer in a registered nursing home, a registered residential home or your own home,*
- (c) care at a day centre,*
- (d) professional help with domestic tasks (such as cleaning, washing, ironing, shopping and preparing meals) necessary to enable you to remain in your own home*

less the total of the monthly equivalents of any benefits payable from any other policies in respect of such care or services for you."

I appreciate Mrs D feels she is best placed to look after the needs of her husband. And that this should be done at home. She has explained she has medical qualifications and experience she can bring to bear in caring for him.

But while I understand this point, she is not doing this in a professional capacity. I appreciate Mrs D will be spending many hours looking after her husband. But there has been no identifiable cost incurred by Mr D for the care Mrs D is providing. He is the owner of the policy and the person who is to be reimbursed for any loss. As Scottish Widows has explained, the policy is intended to cover the costs of providing care, whether that's at home or elsewhere.

In the circumstances, I am unable to agree Scottish Widows should pay the benefit to Mrs D.

Mrs D has said she is unsure what services are covered by the policy. But as noted above, the policy wording does say professional help with tasks such as cleaning, washing and ironing are included. Although Mrs D would like a comprehensive list, I don't think that's practical. Instead, I think it's reasonable for each claim to be reviewed on a case-by-case basis.

I note Mrs D has claimed for the cost of looking after their garden. She said her husband used to do this, but can no longer do so. Scottish Widows didn't accept the claim. It said the policy was only designed to cover the cost of professional services for the provision of care. It was not intended to activities the insured person was no longer able to perform. I do not think it was wrong for Scottish Widows to reject this claim.

Scottish Widows has accepted claims for the payment of laundry services used by Mrs D. I understand there are ongoing discussions about how this should continue in the future.

my final decision

I do not uphold the complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D, on behalf of her husband Mr D, to accept or reject my decision before 9 November 2015.

Doug Mansell
ombudsman